

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1406

Introduced by Bohlke, 33; Jensen, 20; Suttle, 10; Wehrbein, 2

Read first time January 20, 2000

Committee: Education

A BILL

1 FOR AN ACT relating to education; to amend sections 43-284 and
2 79-211, Reissue Revised Statutes of Nebraska, sections
3 79-215 and 79-1007.01, Revised Statutes Supplement, 1998,
4 and sections 79-101 and 79-201, Revised Statutes
5 Supplement, 1999; to provide for special-purpose
6 education programs; to provide duties for the Department
7 of Health and Human Services, the State Department of
8 Education, and school districts; to define terms; to
9 harmonize provisions; to repeal the original sections;
10 and to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. The State Board of Education shall adopt and
2 promulgate rules and regulations for the approval of
3 special-purpose education programs located in institutions as
4 defined in section 79-101, emergency shelters, and county detention
5 homes established under section 43-2,110. The rules and
6 regulations shall include, but not be limited to:

7 (1) Requirements for the school term which shall be not
8 less than five instructional hours per day that the program is in
9 session;

10 (2) Requirements for certificated teachers, including
11 teachers with special education endorsements;

12 (3) Requirements for a curriculum that is designed to
13 meet or exceed academic standards adopted and promulgated by the
14 board;

15 (4) Requirements for a curriculum that is designed to
16 assist secondary students to earn academic credit in their resident
17 school districts;

18 (5) Requirements for a curriculum that includes
19 instruction in mathematics, reading, science, and social studies;

20 (6) Authorization to develop an individualized education
21 plan for any special education student, in consultation with his or
22 her resident school district, to be applicable only while the
23 student is attending the special-purpose education program;

24 (7) Requirements, duties, and qualifications for
25 designated liaisons to coordinate the students' education with
26 their resident school districts; and

27 (8) Requirements for monitoring of the special-purpose
28 education programs by the department.

1 The requirements may be phased in but shall be fully
2 implemented by July 1, 2003.

3 Sec. 2. The Department of Health and Human Services and
4 the State Department of Education shall jointly establish rates for
5 reimbursements for the educational services provided to state wards
6 through special-purpose education programs pursuant to section 1 of
7 this act. Initial rates shall be established prior to August 1,
8 2000. The initial rates shall be reviewed and modified prior to
9 December 31, 2000, before July 1, 2001, and annually before each
10 July 1, thereafter. The rate-setting process shall include a
11 public hearing on the proposed rates. The Department of Health and
12 Human Services and the State Department of Education shall jointly
13 adopt and promulgate rules and regulations to carry out this
14 section.

15 Sec. 3. Each school district shall maintain membership
16 status for resident students who are wards of the state or wards of
17 any court who are placed for treatment in an institution as defined
18 in section 79-101, an emergency shelter, or a county detention home
19 established under section 43-2,110. The school district shall also
20 appoint a liaison to coordinate the student's education with the
21 institution, shelter, or home and shall award academic credit to
22 the student in accordance with school district policies.

23 Sec. 4. Section 43-284, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-284. When any juvenile is adjudged to be under
26 subdivision (3) or (4) of section 43-247, the court may permit such
27 juvenile to remain in his or her own home subject to supervision or
28 may make an order committing the juvenile to (1) the care of some

1 suitable institution, (2) inpatient or outpatient treatment at a
2 mental health facility or mental health program, (3) the care of
3 some reputable citizen of good moral character, (4) the care of
4 some association willing to receive the juvenile embracing in its
5 objects the purpose of caring for or obtaining homes for such
6 juveniles, which association shall have been accredited as provided
7 in section 43-296, (5) the care of a suitable family, or (6) the
8 care and custody of the Department of Health and Human Services.

9 Under subdivision (1), (2), (3), (4), or (5) of this
10 section, upon a determination by the court that there are no
11 parental, private, or other public funds available for the care,
12 custody, education, and maintenance of a juvenile, the court may
13 order a reasonable sum for the care, custody, education, and
14 maintenance of the juvenile to be paid out of a fund which shall be
15 appropriated annually by the county where the petition is filed
16 until suitable provisions may be made for the juvenile without such
17 payment.

18 The amount to be paid by a county for education pursuant
19 to this section shall not exceed the average cost for education of
20 a public school student in the county in which the juvenile is
21 placed or the rate established in section 2 of this act if the
22 juvenile is placed in an institution as defined in section 79-101
23 and shall be paid only for education in kindergarten through grade
24 twelve.

25 The court may enter a dispositional order removing a
26 juvenile from his or her home upon a written determination that
27 continuation in the home would be contrary to the health, safety,
28 or welfare of such juvenile and that reasonable efforts to preserve

1 and reunify the family have been made if required under section
2 43-283.01.

3 Sec. 5. Section 79-101, Revised Statutes Supplement,
4 1999, is amended to read:

5 79-101. For purposes of Chapter 79:

6 (1) School district means the territory under the
7 jurisdiction of a single school board authorized by Chapter 79;

8 (2) School means a school under the jurisdiction of a
9 school board authorized by Chapter 79;

10 (3) Legal voter means a registered voter as defined in
11 section 32-115 who is domiciled in a precinct or ward in which he
12 or she is registered to vote and which precinct or ward lies in
13 whole or in part within the boundaries of a school district for
14 which the registered voter chooses to exercise his or her right to
15 vote at a school district election or at an annual or special
16 meeting of a Class I school district;

17 (4) Prekindergarten programs means all early childhood
18 programs provided for children who have not reached the age of five
19 by October 15 of the current school year;

20 (5) Elementary grades means grades kindergarten through
21 eight, inclusive;

22 (6) High school grades means all grades above the eighth
23 grade;

24 (7) School year means (a) for elementary grades other
25 than kindergarten, the time equivalent to at least one thousand
26 thirty-two instructional hours and (b) for high school grades, the
27 time equivalent to at least one thousand eighty instructional
28 hours;

1 (8) Instructional hour means a period of time, at least
2 sixty minutes, which is actually used for the instruction of
3 students;

4 (9) Teacher means any certified employee who is regularly
5 employed for the instruction of pupils in the public schools;

6 (10) Administrator means any certified employee such as
7 superintendent, assistant superintendent, principal, assistant
8 principal, school nurse, or other supervisory or administrative
9 personnel who do not have as a primary duty the instruction of
10 pupils in the public schools;

11 (11) School board means the governing body of any school
12 district. Board of education has the same meaning as school board;

13 (12) Teach means and includes, but is not limited to, the
14 following responsibilities: (a) The organization and management of
15 the classroom or the physical area in which the learning
16 experiences of pupils take place; (b) the assessment and diagnosis
17 of the individual educational needs of the pupils; (c) the
18 planning, selecting, organizing, prescribing, and directing of the
19 learning experiences of pupils; (d) the planning of teaching
20 strategies and the selection of available materials and equipment
21 to be used; and (e) the evaluation and reporting of student
22 progress;

23 (13) Permanent school fund means the fund described in
24 section 79-1035.01;

25 (14) Temporary school fund means the fund described in
26 section 79-1035.02; ~~and~~

27 (15) School lands means the lands described in section
28 79-1035.03. Educational lands has the same meaning as school

1 lands;

2 (16) Institution means a residential setting operated by
3 a service provider which either is certified or licensed by the
4 Department of Health and Human Services Regulation and Licensure or
5 is enrolled in the medical assistance program established under
6 sections 68-1018 to 68-1026 and Title XIX or XXI of the federal
7 Social Security Act, as amended, and which operates a
8 special-purpose education program authorized by section 1 of this
9 act; and

10 (17) Treatment means a specific placement of a child for
11 reasons of safety of self and others.

12 The State Board of Education shall adopt and promulgate
13 rules and regulations to define school day, school month, and other
14 appropriate units of the school calendar.

15 Sec. 6. Section 79-201, Revised Statutes Supplement,
16 1999, is amended to read:

17 79-201. Except as provided in section 79-202, every
18 person residing in a ~~school district within~~ the State of Nebraska
19 who has legal or actual charge or control of any child who is not
20 less than seven years of age and not more than sixteen years of age
21 or who is younger than seven years of age and is enrolled in any
22 public school shall cause such child to attend regularly ~~the a~~
23 public, private, denominational, or parochial ~~day schools~~ school or
24 a special-purpose education program which ~~meet~~ meets the
25 requirements for legal operation prescribed in Chapter 79 each day
26 that such ~~schools are~~ school or program is open and in session,
27 except when excused by school authorities, unless such child has
28 graduated from high school. Any person with legal or actual charge

1 or control of a child younger than seven years of age who is
2 enrolled in a public school may discontinue the enrollment of such
3 child pursuant to the policy of the school board. All school
4 boards shall adopt policies allowing discontinuation of the
5 enrollment of students younger than seven years of age and
6 specifying the procedures therefor. ~~The~~ Except as provided by the
7 State Board of Education pursuant to section 1 of this act for
8 special-purpose education programs, the school term shall be as
9 provided in section 79-211.

10 Sec. 7. Section 79-211, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-211. Except as provided in section 1 of this act, the
13 ~~The~~ school term shall not be less than (1) one thousand thirty-two
14 instructional hours for elementary grades and (2) one thousand
15 eighty instructional hours for high school grades in any public
16 school district or private, denominational, or parochial school.
17 If any district which receives twenty percent or more of its total
18 receipts for general fund purposes from federal sources fails to
19 actually receive receipts anticipated at the time of the adoption
20 of the school budget from taxes, state funds, federal funds,
21 tuition, or other sources, the school board ~~or board of education~~
22 of such district may, at any time during the school year, elect to
23 close all or part of its schools.

24 Sec. 8. Section 79-215, Revised Statutes Supplement,
25 1998, is amended to read:

26 79-215. (1) A school board ~~or board of education~~ may
27 admit nonresident ~~pupils~~ students to the school district, may
28 determine the rate of tuition of the ~~pupils~~ students, and shall

1 collect such tuition in advance except as otherwise provided in
2 this section.

3 (2) When the ~~pupil~~ student as a ward of the state or as a
4 ward of any court (a) has been placed in a school district other
5 than the district in which he or she resided at the time he or she
6 became a ward and such ward does not reside in a foster family home
7 licensed or approved by the Department of Health and Human Services
8 Regulation and Licensure or a foster home maintained or used ~~by the~~
9 ~~Department of Correctional Services~~ pursuant to section 83-108.04
10 or (b) has been placed ~~in any~~ for treatment in an institution which
11 ~~maintains a special education program which has been approved by~~
12 ~~the State Department of Education and such institution is not owned~~
13 ~~or operated by the pupil's resident school district as defined in~~
14 section 79-101, the cost of his or her education and the required
15 transportation costs associated with the child's education shall be
16 paid by the state, but not in advance, to the receiving school
17 district or ~~approved~~ institution under rules and regulations
18 prescribed by the Department of Health and Human Services and the
19 State Department of Education pursuant to section 2 of this act.
20 Any ~~pupil~~ student who is a ward of the state or a ward of any court
21 who resides in a foster family home licensed or approved by the
22 Department of Health and Human Services Regulation and Licensure or
23 a foster home maintained or used ~~by the Department of Correctional~~
24 ~~Services~~ pursuant to section 83-108.04 shall be deemed a resident
25 of the district in which the foster family home or foster home is
26 located.

27 (3) In the case of any individual eighteen years of age
28 or younger who is a ward of the state or any court and who is

1 placed in a county detention home established under section
2 43-2,110, the cost of his or her education shall be paid by the
3 state, regardless of such individual's district of residency, to
4 the agency or institution which: (a) Is selected by the county
5 board with jurisdiction over such detention home; (b) has agreed or
6 contracted with such county board to provide educational services;
7 and (c) has been approved by the State Department of Education
8 pursuant to rules and regulations prescribed by the State Board of
9 Education.

10 (4) No tuition shall be charged for children who may be
11 by law allowed to attend the school without charge. The school
12 district in which the parent or guardian of any nonresident pupil
13 maintains his or her legal residence shall not be liable for the
14 payment of tuition and the children of school age of such parent or
15 guardian shall be entitled to free common school privileges the
16 same as any child who is a bona fide resident of such school
17 district whenever the parent or guardian of such nonresident pupil,
18 having entered the public service of the State of Nebraska, has
19 moved from the school district in which he or she maintains legal
20 residence into another school district for temporary purposes
21 incidental to serving the state, without the intention of making
22 the school district to which the parent or guardian has moved his
23 or her legal residence. No tuition shall be charged for a child
24 whose parents are divorced if such child attends school in a
25 district in which either parent resides. The burden of proof as to
26 legal residence shall rest with the person claiming legal residence
27 in any district. The school district may allow a pupil whose
28 residency in the district ceases during a school year to continue

1 attending school for the remainder of that school year without
2 payment of tuition.

3 (5) The school board ~~or board of education~~ may admit
4 nonresident pupils to the school district without requiring the
5 payment of tuition if such pupils are in the actual physical
6 custody of a resident of the school district and are not residents
7 of an adjoining school district and the board determines that the
8 pupils would otherwise be denied guaranteed free common school
9 privileges.

10 ~~(6) The changes made to this section by Laws 1992, LB 3,~~
11 ~~Ninety-second Legislature, Third Special Session, shall apply to~~
12 ~~all reimbursements under this section for school year 1992-93 and~~
13 ~~all school years thereafter.~~

14 Sec. 9. Section 79-1007.01, Revised Statutes Supplement,
15 1998, is amended to read:

16 79-1007.01. (1) For school fiscal year 1998-99 and each
17 school fiscal year thereafter, the adjusted formula students for
18 each local system shall be calculated by:

19 (a) Multiplying the formula students in each grade range
20 by the corresponding weighting factors to calculate the weighted
21 formula students for each grade range as follows:

22 (i) The weighting factor for kindergarten is five-tenths;

23 (ii) The weighting factor for grades one through six,
24 including full-day kindergarten, is one;

25 (iii) The weighting factor for grades seven and eight is
26 one and two-tenths; ~~and~~

27 (iv) The weighting factor for grades nine through twelve
28 is one and four-tenths; and

1 (v) Beginning with aid to be paid in the 2001-02 school
2 fiscal year, the weighting factor for wards of the state or wards
3 of any court who are placed for treatment in an institution as
4 defined in section 79-101, an emergency shelter, or a county
5 detention home established under section 43-2,110 is one-tenth;

6 (b) Adding the weighted formula students for each grade
7 range to calculate the weighted formula students for the local
8 system; and

9 (c) Adjusting the weighted formula students by adding the
10 following demographic factors:

11 (i) The Indian-land factor shall equal 0.25 times the
12 average daily attendance of students who reside on Indian land as
13 reported by the United States Department of Education in
14 calculating the local system's payment pursuant to 20 U.S.C. 7701
15 et seq.;

16 (ii) The limited English proficiency factor shall equal
17 0.25 times the formula students in the local system with limited
18 English proficiency as defined under rules and regulations of the
19 United States Department of Education promulgated pursuant to Title
20 VI of the Civil Rights Act of 1964;

21 (iii) The department shall calculate the number of
22 formula students to whom the poverty factor shall apply. The
23 department shall calculate a ratio of the formula students to the
24 total children under nineteen years of age residing in the local
25 system and shall apply the ratio to the low-income children within
26 the local system, in order to determine the number of low-income
27 students within such local system. The number of children under
28 nineteen years of age used in this calculation shall be derived

1 from income tax information. The poverty factor shall equal the
2 number of low-income students or the formula students qualified for
3 free lunches or free milk under United States Department of
4 Agriculture child nutrition programs, whichever is greater,
5 multiplied by the following factors:

6 (A) 0 for the qualified formula students comprising the
7 first five percent of the formula students in the local system;

8 (B) 0.05 for the qualified formula students comprising
9 more than five percent and not more than ten percent of the formula
10 students in the local system;

11 (C) 0.10 for the qualified formula students comprising
12 more than ten percent and not more than fifteen percent of the
13 formula students in the local system;

14 (D) 0.15 for the qualified formula students comprising
15 more than fifteen percent and not more than twenty percent of the
16 formula students in the local system;

17 (E) 0.20 for the qualified formula students comprising
18 more than twenty percent and not more than twenty-five percent of
19 the formula students in the local system;

20 (F) 0.25 for the qualified formula students comprising
21 more than twenty-five percent and not more than thirty percent of
22 the formula students in the local system; and

23 (G) 0.30 for the qualified formula students comprising
24 more than thirty percent of the formula students in the local
25 system; and

26 (iv) The extreme remoteness factor shall equal 0.125
27 times the formula students in the local system for each local
28 system that has fewer than two hundred formula students, more than

1 six hundred square miles in the local system, less than
2 three-tenths formula student per square mile in the local system,
3 and more than twenty-five miles between the high school attendance
4 center and the next closest high school attendance center on paved
5 roads.

6 (2) The total adjusted formula students for each local
7 system shall equal the weighted formula students plus the
8 demographic factors, except that (a) for local systems qualifying
9 for the extreme remoteness factor, the total adjusted formula
10 students shall be greater than or equal to one hundred fifty
11 adjusted formula students, (b) the total adjusted formula students
12 for a local system shall not include the extreme remoteness factor
13 or any adjustment to the adjusted formula students resulting from
14 qualification for the extreme remoteness factor for the calculation
15 of the average formula cost per student in each cost grouping
16 pursuant to subdivision (2) of section 79-1007.02, and (c) the
17 total adjusted formula students for a local system shall include
18 the extreme remoteness factor and any adjustment to the adjusted
19 formula students resulting from qualification for the extreme
20 remoteness factor for the calculation of the local system's formula
21 need pursuant to subdivision (3) of section 79-1007.02.

22 Sec. 10. Original sections 43-284 and 79-211, Reissue
23 Revised Statutes of Nebraska, sections 79-215 and 79-1007.01,
24 Revised Statutes Supplement, 1998, and sections 79-101 and 79-201,
25 Revised Statutes Supplement, 1999, are repealed.

26 Sec. 11. Since an emergency exists, this act takes
27 effect when passed and approved according to law.